IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE M.N.KRISHNAN

THURSDAY, THE 26TH JULY 2007 / 4TH SRAVANA 1929

CRP.No. 691 of 2007()

AGAINST THE ORDER DATED 13/07/2007 IN EA.45/2007 IN EP.1/07 IN A.P. 238/01
of III ADDL. DISTRICT COURT, KOLLAM

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REVN. PETITIONER: RESPONDENT/COUNTER PETITIONER

DR.N.S.BEENA UNNIKRISHNAN,
W/O.UNNIKRISHNAN, SREEPADMAM,
SANKARAMANGALAM COLONY, SASTHAMKOTTA P.O.,
KOLLAM - 690 521, KERALA STATE.

BY ADV. SRI.C.S.MANU

RESPONDENTS: PETITIONER/DECREE HOLDER

M/S.MAHARASHTRA APEX CORPORATION LTD.,
REGISTERED OFFICE: SYNDICATE HOUSE,
MANIPAL - 576 119, REPRESENTED BY ITS
GENERAL POWER OF ATTORNEY HOLDER BHARGAVAN,
S/O.PARAMU, S.N.SADANAM, MUKKOODU P.O.,
MULAVANA, KOLLAM.

BY

THIS CIVIL REVISION PETITION HAVING COME UP FOR ADMISSION ON 26/07/2007, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

M.N.KRISHNAN, J

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C.R.P. No.691 OF 2007

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Dated this the 26th day of July, 2007

O R D E R

This civil revision petition is preferred against the order of the IIIrd Addl. District Court, Kollam in E.A.No.45 of 2007 in E.P.No.1/2007 in A.P.No.238 of 2001. As per the said order, since the respondent in the petition was not present, the court ordered attachment of Rs.3,000/- from her salary. Learned counsel for the petitioner has produced a copy of the order of attachment issued by the District Judge, Uduppi in Execution Case No.525 of 2003 in A.P.No.238 of 2001. It is for the very same award the execution petition is filed before the Kollam District Court as well. The questions to be considered are:(1) whether there can be two such attachments for the same award, (2) whether there can be attachment of the salary for more than 24 months and (3) whether the court at Kollam would have original jurisdiction to entertain the execution petition. Recently it has been held in the decision reported in ***I.C.D.S. Ltd. v. Mangala Builders Pvt.Ltd. (AIR 2001 Karnataka 364)*** that the court which can execute the award under the Arbitration and Conciliation Act is the court which is

empowered to set aside the award under Section 34 of the said Act. I find these points have not been considered by the court below and therefore the order suffers from serious infirmity and it is set aside. The order of attachment passed is also set aside and the court is directed to reconsider the matter in the light of the above observations, after hearing both sides. Since the matter is disposed of at the admission stage itself, the court below is directed to give notice to the decree holder. The judgment debtor is directed to appear before the court below on 4.9.2007.

C.R.P. is disposed of as above.

M.N.KRISHNAN, JUDGE

Cdp/-